

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/15)

Fiscal Year 2016-17	Business Unit 4300	Department Developmental Services	Priority No.
Budget Request Name 4300-004-BCP-BR-2016-GB		Program 4140023	Subprogram

Budget Request Description
 Home and Community-Based Services (HCBS) - New Regulations Workload

Budget Request Summary



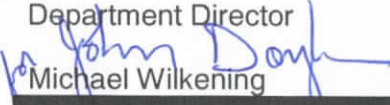
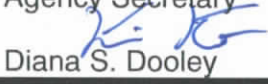
The Department of Developmental Services (Department) requests \$483,000 (\$330,000 GF) and 4.0 positions to support the immediate workload associated with the State's transition plan and direct regional center and service provider efforts to comply with the Centers for Medicare and Medicaid Services' (CMS) new regulations for Medicaid-eligible home and community-based settings. The new, comprehensive regulations create additional workload for planning, training, assessing, and reporting activities to demonstrate compliance by March 2019 in order for the State to maintain the current level of \$1.7 billion annually in federal financial participation reimbursements for Purchase of Services expenditures.

Requires Legislation <input type="checkbox"/> Yes <input type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date

For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance.

☐ FSR ☐ SPR Project No. Date:

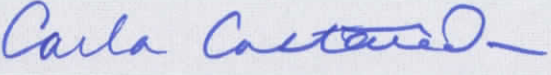
If proposal affects another department, does other department concur with proposal? ☐ Yes ☐ No
 Attach comments of affected department, signed and dated by the department director or designee.

Prepared By  Jennifer Harris	Date 1.6.16	Reviewed By  Jean Johnson	Date 1-6-16
Department Director  Michael Wilkening	Date 1/6/16	Agency Secretary  Diana S. Dooley	Date 1-6-16

Department of Finance Use Only

Additional Review: ☐ Capital Outlay ☐ ITCU ☐ FSCU ☐ OSAE ☐ CALSTARS ☐ Dept. of Technology

BCP Type: ☐ Policy ☒ Workload Budget per Government Code 13308.05

PPBA 	Date submitted to the Legislature 1-7-16
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Analysis of Problem

A. Budget Request Summary

The Department of Developmental Services (Department) requests \$483,000 (\$330,000 GF) and 4.0 positions to support the immediate workload associated with the State's transition plan and direct regional center and service provider efforts to comply with CMS' new regulations for Medicaid-eligible home and community-based settings.

There is increased workload associated with compliance efforts for the new federal HCBS regulations, and as such additional staffing is necessary to come into compliance by March 16, 2019. The new regulations impact services provided to 300,000 regional center consumers including 145,000 consumers either on the HCBS Waiver or eligible for 1915 (i) State Plan Amendment (SPA) services. The Department will dedicate the additional resources to complete the following activities: outreach, information sharing, training material development, stakeholder coordination, statute, regulation, and policy revisions, service provider assessments, data collection, and reporting.

Without these additional positions, the Department cannot complete all the transition activities necessary to comply with the new CMS regulations, which places the State's receipt of \$1.7 billion annually in FFP reimbursements at risk. Given the entitlement to services in the Lanterman Developmental Disabilities Services Act, the loss of the federal funds will strain the State's General Fund.

B. Background/History

In January 2014, CMS published final rules defining what constitutes a home and community-based setting for Medicaid reimbursement purposes under Section 1915(c) HCBS waivers, and Section 1915(i) HCBS State Plan programs. While the effective date of the regulations was March 17, 2014, states are allowed up to a five-year transition period to make any modifications necessary to comply with the regulations. CMS spent several years developing the final regulations through its rule making process, and compiled and analyzed numerous comments from consumers, advocates, providers, state and local government agencies, and the public. The final regulations provide guidance about the qualities that make a setting home and community-based, rather than focusing on which settings are institutional in nature.

To operate in full compliance with the new CMS regulations, HCBS settings must be integrated into (and support full access of individuals receiving Medicaid HCBS) the greater community. This includes: opportunities to seek employment and work in competitive, integrated settings, engagement in community life, control of personal resources, and receiving services in the community to the same degree of access as individuals not receiving Medicaid HCBS. Under the new regulations, a setting is selected by the individual from among setting options including non-disability-specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in consumers' person-centered plans and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.

Existing staff workload includes billing, monitoring and tracking of federally funded programs, and monitoring regional center activities for federal compliance. In addition, recent legislation mandates the Department to implement the Self-Determination Program (SDP) and seek federal funding for the program. Added responsibilities related to the SDP include the support of an active stakeholder process and soliciting constructive input for program development, preparing pertinent data and materials to guide the stakeholder process, and developing the application for federal funding. Further, the Department is in the process of developing additional resources for the transition and support of the residents of Sonoma, Fairview, and Porterville Developmental Centers in preparation for the closures of these facilities. Moreover, existing staff assist with the Developmental Services Task Force efforts to identify areas of improvement to the current local assistance operations and service delivery systems.

Analysis of Problem

Resource History - Authorized Expenditure and Positions (Dollars in thousands)

Program Budget	PY - 4	PY - 3	PY - 2	PY - 1	PY
Authorized Expenditures	\$502	\$467	\$491	\$494	\$598
Actual Expenditures	\$371	\$336	\$267	\$286	\$561
Revenues	N/A	N/A	N/A	N/A	N/A
Authorized Positions ₁	8.5	8.5	8.5	8.5	10.5
Filled Positions	6.5	5.5	4.7	4.5	9.0
Vacancies	2.0	3.0	3.8	4.0	1.5

1 Federal Programs and Operations Section

Workload History₂

Workload Measure	PY - 4	PY - 3	PY - 2	PY - 1	PY	CY
Work with DHCS and other affected state agencies on issues related to the Statewide Transition Plan (STP).					13 hrs.	26 hrs.
Identify and develop Department specific activities and efforts needed to achieve transition to compliance with CMS regulations for inclusion in the STP.					39 hrs.	78 hrs.
Coordinate assessment of provider settings for federal compliance, which involves analysis of related laws, regulations, standards, policies, and licensing requirements; and includes evaluation of provider service settings.					104 hrs.	156 hrs.
Prepare necessary informational documentation and reports for Department management, DHCS, and CMS.						52 hrs.
Implement remediation phase of transitioning into compliance with CMS regulations, which includes identifying, implementing, and documenting remedial actions necessary to achieve compliance of provider settings according to specific timelines.						104 hrs.
Develop a monitoring program and structure to ensure ongoing compliance with CMS regulations.					52 hrs.	104 hrs.
Administrative and coordination duties including coordinating advisory groups and subgroups, and monitoring public and stakeholder comment email.					312 hrs.	520 hrs.

2 The effective date of new regulations was March 17, 2014 and therefore, no workload in PY-4 through PY -1

Analysis of Problem

C. State Level Considerations

This request is consistent with the state priority of maximizing federal financial participation (FFP) where possible, and to maintain existing federal funding of \$1.7 billion for purchase of services.

This request is also consistent with strategies to achieve accountability goals within the Department's Strategic Plan by devising and implementing a program to assist regional centers and service providers in meeting federal mandates.

D. Justification

CMS implemented final rules defining what constitutes a home and community-based setting for Medicaid reimbursement purposes to ensure that Medicaid is supporting needed strategies for states to provide covered program services to eligible individuals with disabilities in the most integrated setting appropriate to their needs. Provisions in the new CMS regulations intend to move toward a stronger articulation of the qualities that make a setting a home and truly integrated in the broader community. Per CMS, these are the qualities most often articulated by persons with disabilities as key determinants of independence and community integration.

To maintain federal funding of the Department's 1915(c) HCBS Waiver and 1915(i) SPA, the Department must come into compliance with the new CMS regulations by March 16, 2019. For FY 2015-16, these two federal programs are expected to provide \$1.7 billion in federal financial participation, which represents approximately 35% of the Department's local assistance Purchase of Services budget. In addition to this request for DDS staffing resources, the November 2015 Regional Center Local Assistance Estimate requests funding for: 1) 21 regional center positions to work with the Department in assessing service settings of the approximately 7,000 service providers impacted by the CMS rule changes, which will include on-site assessment activities and 2) \$11 million General Fund to assist providers in transitioning services to models more consistent with the HCBS Waiver.

Ongoing efforts are essential to ensure compliance with the CMS regulations, which will result in continuous workload for the requested positions. The positions requested in this BCP are as follows:

- (1) Community Program Specialist III (CPS III)
- (3) Community Program Specialist II (CPS II)

One Community Program Specialist III (CPS III) position is needed to assist, direct, coordinate and oversee the activities of the 3.0 Community Program Specialist II positions, lead the liaison activities with each regional center, and complete the higher level assignments, as detailed by the following tasks:

Analysis of Problem

Community Services Division – 1.0 Community Program Specialist III - CMS Rule (Office of Federal Programs and Fiscal Support)		
TASKS	TOTAL HOURS FOR	PERSONNEL YEARS
Communication strategies: outreach, education, and training		
Manage, process, and assist with communication with all stakeholders – State departments (e.g. DHCS, DSS, DOF) regional centers, DDS work groups/subgroups, internal teams, service providers, consumers, and families.	140	
Oversee and assist with development of informational and training materials for regional centers, stakeholders, service providers, consumers, and families, and supervise maintenance of Internet pages as needed.	140	
Manage and assist with training and information sessions for stakeholders.	100	
Standards and home and community-based settings compliance		
Manage, process, and assist with finalizing all reports concerning assessment of statute, regulations, policies, and protocols.	50	
Supervise publication of DDS-specific tools for provider self-surveys and on-site assessments.	50	
Oversee development of informational processes, training assessment teams, and materials for provider self-surveys for on-site assessments.	280	
Manage and assist in the development of a process for identifying settings “presumed to be institutional” per CMS Guidance including information received during public input process.	260	
DDS-Specific Transition Plan		
Supervise drafting of Transition Plans for the 1915(c) HCBS Waiver and the 1915(i) State Plan and assist with incorporating into all Statewide Transition Plans.	110	
Oversee the public comment process for development/submission and responses to CMS' requests for clarifications and amendments of transition plan, including any changes made as a result of public comments.	80	
Remediation		
Oversee and assist with stakeholder process of defining/identifying new service models or potential changes to existing models and with changes to statute, regulations, and policies.	150	
Manage process to recommend changes to statute, regulations, policies, and protocols to bring State standards into compliance, and draft waiver and state plan amendments based on changes implemented, including assisting with CMS responses after amendments are submitted.	180	
Data collection and required reporting		
Oversee collection and maintenance of data regarding provider self-surveys and on-site assessments and assist with production of reports for executive management, stakeholders, and CMS	210	
TOTAL Community Program Specialist III	1,750	1.0

Analysis of Problem

Three Community Program Specialist II positions are needed to perform a number of activities or functions, as detailed by the following tasks:

Community Services Division – 3.0 Community Program Specialist II - CMS Rule (Office of Federal Programs and Fiscal Support)		
TASKS	TOTAL HOURS FOR	PERSONNEL YEARS
Communication strategies: outreach, education, and training		
Maintain communication with all stakeholders – State departments (e.g. DHCS, DSS, DOF) regional centers, DDS work groups/subgroups, internal teams, service providers, consumers and families	360	
Develop information and conduct training and materials for regional centers, stakeholders, service providers, and consumers and families, and maintain/update Internet as needed.	570	
Standards and home and community-based settings compliance		
Finalize all reports concerning assessment of statute, regulations, policies/protocols, DDS-specific tools for provider and self-surveys and on-site assessments.	300	
Develop informational and training materials for provider self-surveys, coordinate process for completion/submission of provider self-surveys and on-site assessments.	390	
Establish process, coordinate training and teams for on-site assessments and develop process for identifying settings “presumed to be institutional” per CMS Guidance.	310	
DDS-Specific Transition Plan		
Draft Transition Plans for the 1915(c) HCBS Waiver and the 1915(i) State Plan and work with DHCS to incorporate the Transition Plans, and all subsequent DDS-specific plans into the Statewide Transition Plan.	460	
Conduct public comment process for development/submission of transition plan, including any changes made as a result of public comments. Respond to CMS’ requests for clarifications and amendments to transition plan.	530	
Remediation		
Work with stakeholders on defining/identifying new service models or potential changes to existing models and develop recommendations for changes to statute, regulations, policies, and protocols to bring State standards and settings into compliance.	350	
Draft potential changes to statute, regulations, policies, and develop needed waiver and state plan amendments based on changes implemented. This includes responding to CMS inquiries after amendments are submitted.	850	
Data collection and required reporting		
Collect and maintain data regarding provider self-surveys and on-site assessments.	180	
Develop and produce reports, as required, for executive management, stakeholders, and CMS.	350	
TOTAL Community Program Specialist II	4,650	3.0

Analysis of Problem

E. Outcomes and Accountability

Approval of this request for positions and associated funding will allow the Department to perform activities and functions necessary to ensure compliance with the new CMS regulations necessary to maintain federal funding.

Federal funding is essential to the provision of services to all eligible consumers as mandated by the Lanterman Developmental Disabilities Services Act entitlement.

With the additional resources dedicated to complying with the new CMS regulations, the Department anticipates the continued receipt of FFP reimbursements as follows:

Projected FFP – Dollars in Thousands

Workload Measure	PY	CY	BY
HCBS Waiver	\$1,228,013	\$1,454,836	\$1,544,594
1915(i) SPA	\$167,164	\$192,597	\$203,406
Money Follows the Person	\$11,473	\$9,411	\$11,353
Total FFP	\$1,406,650	\$1,656,844	\$1,759,353

F. Analysis of All Feasible Alternatives

1. Provide Resources for 4 Additional Staff (Recommended Alternative)

Pro:

This alternative maintains federal funding of services by providing resources for the Department to ensure compliance with the new CMS regulations for home and community-based settings.

Con: Will result in increased costs and additional state staff.

2. Maintain Status Quo.

Pro:

- Would not require new funding or positions.

Con:

- If the funding is not approved, the activities and efforts needed to comply with the new federal regulations may not be completed by the required implementation date of March 16, 2019.
- Redirection of Headquarters staffing cannot be absorbed within the current resources; therefore, other high-priority workload would be unaddressed or the State may be at risk of losing over \$1.7 billion in federal funds due to lack of compliance with the new rules.

3. Provide Funding and No Additional Staff

Pro:

- Funding would be available to contract for additional workload.

Analysis of Problem

Con:

- The use of contracted services may not provide adequate staff/resources and departmental expertise to perform the activities and efforts needed to comply with the federal regulations by March 16, 2019.
- Failure to comply with the new CMS requirements could have a significant impact on the Department's ability to maintain federal Medicaid funding of over \$1.7 billion.
- This workload cannot be absorbed within the current departmental resources, without creating other high-priority workload backlogs.
- Statutory restrictions limit contracting for services that can be provided by civil service classifications.

G. Implementation Plan

The new CMS regulations require the State to submit to CMS a Statewide Transition Plan that provides the framework for bringing the 1915(c) HCBS Waiver and the 1915(i) SPA into compliance with CMS regulations by March 16, 2019. The Department will follow the Statewide Transition Plan when developing its Waiver-specific transition plan to ensure the home and community-based settings and services are integrated and support full access to the greater community.

The 4.0 positions will expand current efforts to coordinate with stakeholders in provision of education and outreach, development of training materials, and implementation of processes needed for providers to demonstrate compliance initially and ongoing. Compliance efforts will include current efforts to assess statutes, regulations, policies and other requirements, and develop program-specific assessment tools and provider self-assessments. Staff will provide ongoing oversight of implementation and compliance to regional centers and service providers, and liaison with and leverage the 21 new regional center positions proposed in the November 2015 Regional Center Estimate.

H. Supplemental Information

N/A

I. Recommendation

The Department recommends approval of this BCP as requested: \$483,000 (\$330,000 GF) and 4.0 positions to develop the State's transition plan and direct regional center and service provider efforts to comply with the new CMS regulations for Medicaid-eligible home and community-based settings.

BCP Fiscal Detail Sheet

BCP Title: Home and Community-Based Services-New Regulations Workload

DP Name: 4300-004-BCP-DP-2016-GB

Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Positions - Permanent	0.0	4.0	4.0	4.0	4.0	4.0
Total Positions	0.0	4.0	4.0	4.0	4.0	4.0
Salaries and Wages						
Earnings - Permanent	0	258	258	258	258	258
Total Salaries and Wages	\$0	\$258	\$258	\$258	\$258	\$258
Total Staff Benefits	0	125	125	125	125	125
Total Personal Services	\$0	\$383	\$383	\$383	\$383	\$383
Operating Expenses and Equipment						
5301 - General Expense	0	16	16	16	16	16
5304 - Communications	0	4	4	4	4	4
5306 - Postage	0	4	4	4	4	4
5320 - Travel: In-State	0	40	40	40	40	40
5322 - Training	0	4	4	4	4	4
5324 - Facilities Operation	0	20	20	20	20	20
5344 - Consolidated Data Centers	0	8	8	8	8	8
5346 - Information Technology	0	4	4	4	4	4
Total Operating Expenses and Equipment	\$0	\$100	\$100	\$100	\$100	\$100
Total Budget Request	\$0	\$483	\$483	\$483	\$483	\$483

Fund Summary

Fund Source - State Operations						
0001 - General Fund	0	330	330	330	330	330
0995 - Reimbursements	0	153	153	153	153	153
Total State Operations Expenditures	\$0	\$483	\$483	\$483	\$483	\$483
Total All Funds	\$0	\$483	\$483	\$483	\$483	\$483

Program Summary

Program Funding						
4140023 - Community Services Division	0	483	483	483	483	483
Total All Programs	\$0	\$483	\$483	\$483	\$483	\$483

Personal Services Details

Positions	Salary Information			CY	BY	BY+1	BY+2	BY+3	BY+4
	Min	Mid	Max						
8352 - Community Program Spec II				0.0	3.0	3.0	3.0	3.0	3.0
8362 - Community Program Spec III				0.0	1.0	1.0	1.0	1.0	1.0
Total Positions				0.0	4.0	4.0	4.0	4.0	4.0
Salaries and Wages	CY	BY	BY+1	BY+2	BY+3	BY+4			
8352 - Community Program Spec II	0	186	186	186	186	186			
8362 - Community Program Spec III	0	72	72	72	72	72			
Total Salaries and Wages	\$0	\$258	\$258	\$258	\$258	\$258			
Staff Benefits									
5150350 - Health Insurance	0	20	20	20	20	20			
5150500 - OASDI	0	19	19	19	19	19			
5150600 - Retirement - General	0	65	65	65	65	65			
5150800 - Workers' Compensation	0	2	2	2	2	2			
5150900 - Staff Benefits - Other	0	19	19	19	19	19			
Total Staff Benefits	\$0	\$125	\$125	\$125	\$125	\$125			
Total Personal Services	\$0	\$383	\$383	\$383	\$383	\$383			